

# **EXHIBIT 3**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

SC HEALTHCARE HOLDING, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10443 (TMH)

(Jointly Administered)

**X-CALIBER FUNDING LLC’S AND X-CALIBER CAPITAL, LLC’S  
NOTICE OF NON-CONSENT TO SALE**

X-Caliber Funding LLC, in its capacity as servicer for U.S. Bank, N.A., as trustee of XCAL 2019-IL-1 MORTGAGE TRUST, as lender (“X-Caliber Funding”) to Debtors El Paso HCC, LLC; Flanagan HCC, LLC; Kewanee AL, LLC; Knoxville AL, LLC; Legacy Estates AL, LLC; Marigold HCC LLC; Monmouth AL LLC; Polo LLC; El Paso HCO, LLC; Flanagan HCO, LLC; CYE Kewanee HCO, LLC; CYE Knoxville HCO, LLC; Legacy HCO, LLC; Marigold HCO, LLC; CYE Monmouth HCO LLC; and Polo HCO, LLC (collectively, the “Receivership Debtors,”) and X-Caliber Capital, LLC, as lender (“X-Caliber Capital” and together with X-Caliber Funding, the “X-Caliber Entities”) to Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC and Cumberland HCO, LLC (collectively, the “X-Caliber HUD Entities”) file this Notice of Non-Consent to the sale of the assets of the Receivership Debtors and the assets of the X-Caliber HUD Entities and in support thereof, the X-Caliber Entities respectfully state as follows:

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<sup>1</sup> The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors’ proposed claims and noticing agent at [www.kccllc.net/Petersen](http://www.kccllc.net/Petersen).

## **BACKGROUND**

1. On March 20, 2024 (the “Petition Date”), the above captioned debtors and debtors-in-possession, including the Receivership Debtors (collectively, the “Debtors”), filed with this Court voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

2. On May 21, 2024, after prior motion and hearing, the Court entered the *Order (I) Approving (A) Bidding Procedures and (B) Assumption and Assignment Procedures and (II) Granting Related Relief* [Docket No. 341] (the “Bid Procedures Order”), which governs, among other things, the procedure with respect to the sale of substantially all of the Debtors’ assets (the “Sale”).

3. On May 21, 2024, in connection with the Bid Procedures Order, the Debtors filed the *Notice of Sale, Bidding Procedures, Auction, and Sale Hearing* [Docket No. 349] (as amended by Debtors’ Notices of Revised Dates [Docket Nos. 519, 545, 555, 562], the “Notice of Sale Deadlines”). Pursuant to the Notice of Sale Deadlines, the deadline to object to the sale is Wednesday, July 3, 2024 at 5:00 p.m. (ET) (the “Sale Objection Deadline”).

4. On May 21, 2024, the Court entered the *Order Approving Stipulation to Resolve (I) X-Caliber’s (A) Motion to Dismiss, (B) 543 Motion, and (C) DIP Objection, and (II) Debtors’ MT4 Motion to Dismiss* [Docket No. 340] (the “X-Caliber Order”).<sup>2</sup>

5. Pursuant to the X-Caliber Order, among other things, the Receivership Debtors’ Chapter 11 Cases were suspended pursuant to 11 U.S.C. § 305 pending the conclusion of a sale and marketing process conducted by the Debtors and their marketing professionals for the sale of

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the X-Caliber Stipulation.

substantially all of the Debtors' assets, including the assets of the X-Caliber HUD Entities and assets of the Receivership Debtors.

6. The X-Caliber Order provides the X-Caliber Entities with consent rights in connection with the Sale. X-Caliber Funding's consent is required for any sale of the assets of the Receivership Debtors and X-Caliber Capital's consent is required for any sale of the assets of the X-Caliber HUD Entities. X-Caliber Funding has the absolute right to reasonably reject any offer to purchase the assets of the Receivership Debtors if the purchase price fails to satisfy the X-Caliber Allocation and the Commission and X-Caliber Capital has the absolute right to reasonably reject any offer to purchase the assets of the X-Caliber HUD Entities if the purchase price fails to satisfy the X-Caliber Capital Allocation and the Commission. Should either of the X-Caliber Entities choose to exercise its respective rejection option, it must "promptly" provide such non-consent to counsel for the Debtors and the Committee, which shall also include the X-Caliber Allocation or the X-Caliber Capital Allocation, as applicable.

7. On July 3, 2024, the Debtors filed the Notice of Successful Bidders [Docket No. 608] identifying Petersen Acquisitions, LLC as the winning bidder for the purchase of all but five of the Debtors' facilities for a purchase price of \$116,160,000 (the "Portfolio Bid") and HP Developers, LLC as the winning bidder for the purchase of the Debtors' three supportive living facilities for a purchase price of \$14,500,000 (the "SLF Bid" and together with the "Portfolio Bid", the "Bids"). The Portfolio Bid included the assets of the Receivership Debtors and the assets of the X-Caliber HUD Entities, except for Legacy Estates of Monmouth. The SLF Bid included Legacy Estates of Monmouth.

8. Based upon the bids, the Commission due on the Portfolio Bid would be \$2,360,000 and the Commission due on the SLB Bid would be \$290,000.

9. As of July 3, 2024, the X-Caliber Funding Allocation is in excess of \$35 million. The allocation of the purchase price pursuant to the Portfolio Bid allocates less than \$14.2 million to the assets of the Receivership Debtors and the SLF Bid allocates only \$1.25 million to Legacy Estates of Monmouth.

10. As of July 3, 2024, the X-Caliber Capital Allocation is in excess of \$6 million. The allocation of the purchase price pursuant to the Portfolio Bid allocates less than \$4.4 million to the assets of the X-Caliber HUD Entities.

11. The debts to the X-Caliber Entities are well in excess of the Bids and the Bids are well below the valuations offered by the Debtors.

12. X-Caliber Funding does not consent to the sale of the assets of the Receivership Debtors pursuant to the Portfolio Bid or the SLF Bid.

13. X-Caliber Capital does not consent to the sale of the of the assets of the X-Caliber HUD Entities pursuant to the Portfolio Bid.

WHEREFORE, the X-Caliber Entities respectfully request that entry of any order approving the proposed sale be consistent with the above, carving out assets of the Receivership Debtors from any approved sale pursuant to the Portfolio Bid, carving out assets of the X-Caliber HUD Entities from any approved sale pursuant to the Portfolio Bid and carving out the sale of Legacy Estates of Monmouth from any approved sale pursuant to the SLB Bid and granting X-Caliber such other relief it deems just.

*(Signature page to follow)*

Dated: July 3, 2024  
Wilmington, Delaware

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